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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
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Billed Party Preference for )  
InterLATA 0+ Calls )  
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CC Docket No. 92-77

COMMENTS OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL  
ON PETITION FOR RECONSIDERATION

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May 6, 1998

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**COMMENTS OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL  
ON PETITION FOR RECONSIDERATION**

The American Public Communications Council ("APCC") submits the following comments on the petition of Cleartel Communications, Inc., Operator Service Company, and Teltrust Communications Services, Inc. ("Cleartel et al.") seeking reconsideration of the Second Report and Order and Order on Reconsideration in this proceeding, FCC 98-9, released January 29, 1998 ("Order").

Cleartel et al. argue that it was unfair for the Commission to set a compliance date of July 1, 1998, for network-based operator service providers ("OSPs") to implement the rate disclosure requirements established in the Order, while providing a deferred compliance date of October 1, 1999 for store-and-forward OSPs to implement the rate disclosure requirements. Cleartel et al. state that, in order to meet the July 1 compliance date, they will be forced to use an interim method that relies on live operators to provide rate disclosures. According to Cleartel et al., this interim method is extremely costly and the need to invest in it will delay Cleartel et al.'s development of more efficient, automated rate disclosure systems. Cleartel et al. also claim that the earlier deadline and the associated

compliance cost will put network-based OSPs at competitive disadvantage vis-a-vis store-and-forward OSPs.

APCC does not oppose the grant of a waiver or other relief deferring the effective date of the rate disclosure requirement for Cleartel et al. and other similarly situated OSPs. However, APCC does not agree that it was discriminatory for the Commission to have deferred the effective date solely for OSPs using embedded store-and-forward telephone equipment. Because store-and-forward call processors are located within the customer premises equipment that originates the call, store-and-forward OSPs face unique problems in the implementation of rate disclosure requirements. These unique difficulties fully justify the Commission's deferral of the effective date for embedded store-and-forward equipment, whether or not a comparable deferral is warranted for network-based OSPs.

Further, the deferral of the effective date for store-and-forward OSPs does not confer any significant competitive advantage on that group. The deferral is for embedded equipment only. In fact, store-and-forward OSPs are at a competitive disadvantage because live operator services are not a feasible interim compliance method for their new store-and-forward equipment for which the deadline is not deferred.

**I. EMBEDDED STORE-AND-FORWARD EQUIPMENT FACES  
UNIQUE COMPLIANCE ISSUES THAT FULLY JUSTIFY  
DEFERRAL OF THE EFFECTIVE DATE**

Deferral of the rate-disclosure compliance deadline for embedded equipment of store-and-forward OSPs is fully justified whether or not the compliance deadline is also deferred for other OSPs. The unique compliance issues faced by store-and-forward OSPs are fully documented in the record.<sup>1</sup> Furthermore, contrary to Cleartel et al.'s claim, embedded store-and-forward payphones are *not* capable of providing rate information via a live operator process. Cleartel et al. at 6. As discussed in previous submissions by APCC and others, store-and-forward equipment is connected to the network by a single line. The configuration of the equipment simply does not allow for implementation of rate disclosure requirements using live operators. See, e.g., Supplemental Reply Comments of APCC at 3, n.2.

For example, on collect calls, the rate disclosure must be made to the called party. In store-and-forward equipment, a collect call is processed by the payphone placing a call directly from the payphone to the called party's number and then automatically querying the called party using a recorded message in the payphone. If the called party requests a rate disclosure, it is simply infeasible for the payphone's call processor to establish a connection between the called party and a live operator. *Id.* On calling card calls, where

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<sup>1</sup> See, e.g., Comments of APCC, filed July 17, 1996, at 4-6; Supplemental Reply Comments of APCC, filed December 3, 1996; at 3-5; Comments of the Intellicall Companies, filed July 17, 1996; Further Comments of Intellicall, Inc. on Specific Questions, filed November 13, 1996; Letter to William A. Caton from Judith St. Ledger-Roty, March 21, 1997.

the rate disclosure must be made to the caller, it is theoretically possible to configure a store-and-forward system to hand-off rate disclosure requests to a live network operator. However, there is no means of returning control of the call to the payphone owner. *Id.*

Thus, embedded store-and-forward equipment faces unique compliance problems that fully justify the deferral of the effective date for that equipment, regardless of whether the effective date is waived or deferred for other categories of OSP.

## **II. THE DEFERRED EFFECTIVE DATE FOR EMBEDDED STORE-AND-FORWARD PAYPHONES CONFERS NO SIGNIFICANT COMPETITIVE ADVANTAGE**

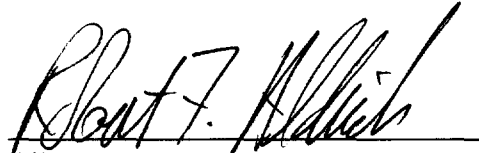
Cleartel et al. claim that "the disparate treatment between network-based OSPs and store and forward OSPs creates enormous incentive for Independent Public Payphone ("IPP") providers to use store and forward OSPs rather than network-based OSPs." Cleartel et al. at 11. According to Cleartel et al., this will occur because "IPP providers determining what type of payphone to purchase and install will undoubtedly choose store and forward payphones since the regulatory burdens on network-based phones will result in possible loss of profits, additional expenses and greater consumer dissatisfaction." Cleartel et al. at 11-12.

Cleartel et al. overlook that the rate disclosure requirements are deferred only for *embedded* store-and-forward equipment. Thus, "IPP providers determining what type of payphone to purchase and install" will have *no* artificial incentive to choose store-and-forward equipment as opposed to a network-based OSP, because the rate disclosure requirement will apply in either case. The only effect of the deferred effective date for

store-and-forward payphones is to allow payphone providers who have *previously* purchased store-and-forward payphones some additional time to recover their original investment in those payphones before expending additional sums to retrofit or replace the payphones.

Dated: May 6, 1998

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert F. Aldrich", written over a horizontal line.

Albert H. Kramer

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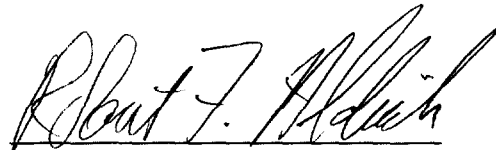
Attorneys for the American Public  
Communications Council

**CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 1998, a copy of the foregoing Comments of American Public Communications Council on Petition for Reconsideration was delivered by hand to the following parties:

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